

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
JUNE 13, 2017 – 6:00 P.M.  
LAWTON CITY HALL  
COUNCIL CHAMBERS/AUDITORIUM

Fred L. Fitch, Mayor  
Presiding

Also Present:  
Jerry Ihler, City Manager  
Frank Jensen, City Attorney  
Traci Hushbeck, City Clerk  
COL Samuel Curtis, Fort Sill Liaison

Mayor Fitch called the meeting to order at 6:15 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Tim Evans, Dayspring Community Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:

Bob Morford, Ward One
Keith Jackson, Ward Two
Caleb Davis, Ward Three
Jay Burk, Ward Four
Dwight Tanner, Jr., Ward Five
Cherry Phillips, Ward Six
V. Gay McGahee, Ward Seven
Doug Wells, Ward Eight

ABSENT: None

PROCLAMATION FOR CYTOMEGALOVIRUS AWARENESS MONTH

Mayor Fitch proclaimed the month of June 2017 as Cytomegalovirus Awareness Month.

AUDIENCE PARTICIPATION:

Tom Leon, 2307 NW Redwood Lane, stated he feels that Dunbar School has to have an end to it. He stated it looks like trash and if it is going to sit down there someone has to do something with it. He does not feel this is an historical site and someone needs to fix it up or tear it down.

McGahee stated she is working with the group that owns the property and they are planning on doing something with it. They have not been active but the grass has been mowed. Some windows have been broken out but it has been cleaned out on the inside. Right now they are not planning to tear it down.

Mr. Leon stated it has just sat there for forty years.

McGahee stated there will be some work done in the area and there is an opportunity for people to come in and volunteer for the restoration. She does agree something has to be done but tearing it down at this point is not an option.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR  
MEETING OF APRIL 25, 2017.

MOVED by Burk SECOND by Jackson to approve the minutes of the Lawton City Council meeting of April 25, 2017. AYE: Morford, Jackson, Davis, Burk, Tanner, McGahee, Phillips, Wells. NAY: None. MOTION CARRIED.

CONSENT AGENDA

Mayor Fitch stated item #19 will be stricken from the agenda and items #5, #7, #9, #12 and #26 will be discussed separately.

MOVED by Wells SECOND by McGahee to approve the consent agenda with the exception of items #5, #7, #9, #12, #19 and #26. AYE: Morford, Jackson, Davis, Burk, Tanner, McGahee, Phillips, Wells. NAY: None. MOTION CARRIED.

1. Consider renewing the professional services agreement with John C. Mackey Jr., to serve as alternate prosecutor and independent investigator, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Retainer Agreement for Professional & Legal Services on file in City Clerk's Office.
2. Consider renewing the professional services agreement with Mackey Law Firm, to provide professional property research services in connection with dilapidated properties, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Retainer Agreement is on file in the City Clerk's Office.
3. Consider renewing the professional services agreement with John C. Mackey Jr., to provide legal representation in an eminent domain case still ongoing as result of the City's widening of 38<sup>th</sup> Street, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Retainer Agreement is on file in the City Clerk's Office.
4. Consider renewing the professional services agreement with James C. Ferguson of Walker, Ferguson and Ferguson for the defense of Workers' Compensation claims. Exhibits: Proposed Retainer Agreement for Professional & Legal Services on file in the City Clerk's Office.
5. Consider approval of an Agreement in Principal with the Lawton Fort Sill Chamber of Commerce for a Contract for Services with Bill Phelps & Associates, LLC, beginning July 1, 2017 through June 30, 2018, for the purpose of providing professional consulting/lobbyist services to the City and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Consultant Agreement.

Davis stated he met with Mr. Phelps, who is also a lobbyist for PSO and other organizations, and in that meeting there was a conflict between what would be best for the City of Lawton and what PSO wanted. Mr. Phelps said that if there was a conflict his first allegiance is to PSO and so he would not represent us in our best interest but he would find someone to represent us. He found that curious that we would rely on him to pick someone out to argue against himself on an item. He stated that the Oklahoma Municipal League (OML) already lobbies for municipalities. We are struggling for every dollar and we have a lot of things to address and we are not going to find it in one lump sum. He does not see what this \$30,000 a year has done for us and he would be interested in hearing if this has been beneficial to the city.

Mayor Fitch stated he has worked closely with Bill Phelps and he lobbies extensively for OML and it covers a lot of broad things. He particularly lobbies for things that apply to Lawton, Oklahoma. He was instrumental in getting a bill passed a couple years ago that has resulted in approximately \$400,000 to \$500,000 in sales tax. He was also the lobbying for the downtown project and that was a sales tax match of what is collected down there and it is paid to us by the State of Oklahoma and it is \$25 million match until 2035. That has paid a lot of \$30,000 fees.

Davis stated that Mayor Fitch is saying that we would not have received the funding on those projects without this lobbyist.

Mayor Fitch stated he is not saying that we would not have, but when you are trying to get to many legislators across the state, he knows so many and it takes rural votes as well as urban votes. He gets all these people on board to support issues that impact cities as well as Lawton.

Davis stated he understands the job of a lobbyist, but he does not see that these things would not have happened without this. We already have representation.

Mayor Fitch stated we can go up there and lobby for things for Lawton, but he does not know every legislator and cannot get into their offices. Mr. Phelps gets you in the door to sit down and talk to legislators. We have talked to 50, 60, 70 legislators on some of these issues and we never would have done that as a team just from Lawton.

Tanner stated he questioned this same issue when he was first on the council and he actually tried to negotiate Mr. Phelps down on his price. One of the things he does is keep a lookout for things that are going on behind the scenes. We do split this cost with the Chamber and it is beneficial to have someone in the state capitol to keep an eye out on something that may impact Lawton in a negative or positive manner. He stated he feels we need Mr. Phelps.

Davis stated his main concern is that there is conflicting interest and he declined to represent us on a particular because it conflicts with PSO.

Ihler stated Mr. Phelps lobbies for Centerpoint Energy, not PSO.

Wells stated he attended the final legislative luncheon last week and four representatives and one senator from our area was in attendance. All of them said that we were very fortunate to have Mr. Phelps up there because of the access he provides.

Mayor Fitch stated he also works very diligently to keep bills out of committee if we don't want it in committee. He also knows those who help us get bills heard in committee. We wouldn't have that kind of influence.

Tanner requested a total cost of the other expenses that Mr. Phelps has billed to the city.

Ihler stated he can provide that information.

Phillips stated there is no question that we need a representative at the state legislature. There are so many new and old laws that come up and we can't keep track of them as a council. We need someone to report to us and she feels very strongly that he is necessary.

Jensen stated the potential for conflict of interest is addressed in his contract and it requires him to advise his clients if he has a potential conflict or an actual conflict.

Davis stated he just wondered what the real life impact is to the City of Lawton when there is already groups lobbying for the best interest of Lawton and he just wondered what the impact would be if we saved the citizens \$30,000.

Tanner stated he is not opposed to tabling this item and bringing it back at the next meeting. Mr. Phelps can show up and explain what he has provided for the City of Lawton in the past year.

Jackson stated Mr. Phelps has worked for the City and the Chamber for a long time and he makes it a point to meet with the council to go over the agenda that the state legislators have and he goes over that in detail so that we can look at what we like and don't like. He feels Mr. Phelps keeps us in the loop that we normally would not be involved in and unfortunately our bureaucratic system nowadays is set up to where lobbyists are very important and Lawton is so unique with it being a military installation town that Mr. Phelps is knowledgeable of Lawton in that regard and he does not think that the Oklahoma Municipal League has the best interest of Lawton individually. They work as a group for municipalities across the entire state and he likes it that Bill Phelps works for Lawton.

Tanner questioned if Mr. Phelps was here.

Mayor Fitch state no.

Burk stated when he first came on council he also had some concerns and he ended up talking to a couple of local senators who told him that every big community has someone at the table and if we don't, we will not be represented. It is pennies on the dollar for what he is sitting at the table to get you and Southwestern Oklahoma can easily be forgotten and we need a representative. It was impressive to him that the legislators that are there believe that it is very important to have someone there to speak on our behalf and to tell us what is coming. He agrees with the Mayor in that if you don't know those people you are not going to get to talk to anyone. He feels this is money well spent.

Davis stated he would support Councilmember Tanners motion to table this item if nothing more than to have Mr. Phelps educate him a little better next time.

Tanner stated he needs to be here because this is a \$50,000 contract.

MOVED by Tanner SECOND by Davis to table. AYE: Davis, Tanner, McGahee, Phillips. NAY: Morford, Jackson, Burk, Wells, Fitch. MOTION FAILED.

MOVED by Burk SECOND by Jackson to approve an Agreement in Principal with the Lawton Fort Sill Chamber of Commerce for a Contract for Services with Bill Phelps & Associates. AYE: Morford, Jackson, Burk, Phillips, McGahee, Wells. NAY: Davis, Tanner. MOTION CARRIED.

6. Consider approving a resolution authorizing and calling for an election in the City of Lawton, State of Oklahoma, for the purpose of setting the dates for the 2017 primary and general municipal elections for designated City Council seats and authorizing the Mayor to issue an election proclamation. Exhibits: **Resolution No. 17-68** and the Election Proclamation.
7. Consider approving a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2015, to implement increases in water, sewer, and refuse rates, as set forth in Exhibit “A” of the Resolution, and establishing an effective date. Exhibits: Resolution No. 17-\_\_ and Exhibit “A”.

Dick McKean, 2415 NW 34<sup>th</sup> Street, stated there is an alternative to the 2.2% that was just added on the utility bill. He stated they are tied to the hotel/motel tax. The \$550,000 that goes to the museum out of the general fund leaves us short. He stated the 2.2% increase will give the city \$400,000 and if you give the museum the \$550,000 out of the hotel/motel fund that will release \$550,000 back into the general fund. The hotel/motel is projected to be \$1.3 million this year and the chamber receives \$900,000. With the \$550,000 from the museum and the expected revenue of \$400,000 you could take the 2.2% off because you now have the \$550,000 that you are not using to pay the museum and you are paying it out of the hotel/motel fund. If you take off the 2.2%, that is helping the citizens. To lay this increase on the citizens and then turn around and give the Chamber \$900,000, you can’t really say you are doing this for the citizens of Lawton.

Mayor Fitch stated the 2.2% generates \$736,000 a year and some of the percentages Mr. McKean are using are not applicable.

MOVED by Burk SECOND by Jackson to approve **Resolution No. 17-69**. AYE: Morford, Jackson, Burk, McGahee, Wells. NAY: Davis, Tanner, Phillips. MOTION CARRIED.

8. Consider approving a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2015, to implement a change to the water and sewer impact fees to the amount of zero dollars (\$0), as set forth in Exhibit A of the Resolution, and establishing an effective date. Exhibits: **Resolution No. 17-70** and Exhibit “A”.

9. Consider approving an Agreement between the Lawton Fort Sill Chamber of Commerce, the City of Lawton, and the Lawton Economic Development Authority to fund activities by the Chamber designed to encourage, promote and foster tourism, economic and industrial development in the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement (with updated performance measures and goals) and Proposed Budget.

Davis questioned if the exhibit dated June 30, 2018 was the proposed budget for spending the hotel/motel tax.

Jackson stated yes.

Davis stated then the salaries, training, health insurance, life insurance, payroll taxes, unemployment taxes and retirement all come from the hotel/motel tax. He questioned if they pay all of these out of hotel/motel or are they paid through other funds as well.

Tanner stated he did not think they paid employee salaries out of this.

Debra Welch, President of the Lawton Fort Sill Chamber of Commerce, stated it does show the salaries that are in each of the five categories and it shows how much is spent out of the hotel/motel tax and it also shows you associated with those particular salaries what would include payroll taxes and unemployment taxes.

Davis stated this is a partial bit of that divided by how many hours they spend on these headings.

Ms. Welch stated no, there are two employees that are 100% dedicated to tourism so the salaries, payroll taxes, unemployment taxes, retirement to those employees would be 100%. The rest are percentages, so there is a certain percentage of her time, of the executive vice president and communications manager that is spent in those areas.

Davis stated 100% of two employees are paid through this hotel/motel tax and the other employees that are paid through this are divided by the hours they worked on these headings.

Ms. Welch stated not by the hours they worked, but by a percentage of their salary. It is always capped, it won't matter how much time we spend on any of these areas, and it will be capped at that percentage that the council has approved.

Davis questioned the percentage.

Ms. Welch stated she did not bring that information but she will get it to the council.

Davis stated that is a fixed percentage for all the employees excluding the two employees that are at 100%.

Ms. Welch stated not all the employees, only the president, vice president and communications manager.

Mayor Fitch stated a lot of employees are paid from membership dues.

Ms. Welch stated the membership director and the special projects manager. The office manager also has a certain percentage because she does all the reception.

Davis stated the president, vice president, office manager and communication manager.

Ms. Welch stated yes and they are all at different percentages.

MOVED by Burk SECOND by Jackson to approve an Agreement between the Lawton Fort Sill Chamber of Commerce, the City of Lawton, and the Lawton Economic Development Authority to fund activities by the Chamber designed to encourage, promote and foster tourism, economic and industrial development in the City of Lawton. AYE: Morford, Jackson, Burk, Tanner, McGahee, Phillips, Wells. NAY: Davis. MOTION CARRIED.

10. Consider accepting a \$2,500.00 donation to the Mayor's Commission Status Women from various sponsors to be designated for 2017 Mayor's Commission Status of Women's scholarship program. Exhibits: None.
11. Consider transferring \$10,000 savings from the Human Resources budget to Fund 67 (Flexible Benefit fund) to pay for the first month claims associated with the changes in the flexible benefit plan. Exhibits: None.
12. Consider approving a contract for the City of Lawton's cloud-based Human Capital Management (HCM) system to Ceridian and authorize the Mayor and City Clerk to execute. Exhibits: On File in the City Clerk's Office - Ceridian Agreement, ROI Financial Tool, RFP Executive Summary; all formal responses are stored on the city's public network drive.

Wells questioned if this contract included the conversion of current data.

Chase Massie, Human Resources Director, stated yes.

Wells questioned if it includes the interface of the data of the new systems into the GEMS system without a manual operation when we are completely changed over.

Massie stated yes.

Wells questioned if it includes training.

Massie stated yes.

Wells questioned if it also includes training for all the divisions.

Massie stated yes. He stated they will spend multiple hours and they will most likely do a training/trainer type thing where they will bring in supervisors and spend time training them so they can help train their employees. They will also do some training out in the field.

Wells stated he does not want to see staff come back to the council wanting more money to do a conversion.

MOVED by Wells SECOND by Burk to approve a contract for the City of Lawton's cloud-based Human Capital Management (HCM) system to Ceridian. AYE: Morford, Jackson, Davis, Burk, Tanner, McGahee, Phillips, Wells. NAY: None. MOTION CARRIED.

13. Consider approving the renewal of the annual agreement between the Center for Creative Living Corporation and the City of Lawton for services to senior citizens in the annual amount of \$16,500.00 and authorize the Mayor and City Clerk to execute the agreement. Exhibits: Center for Creative Living Agreement.
14. Consider approving the annual agreement between Lawton Mobile Meals, Inc. and the City of Lawton for the specific purpose of preserving the health and welfare of homebound elderly and/or disabled citizens of Lawton, Oklahoma in the amount of \$49,004.04, and authorize the Mayor and City Clerk to execute the agreement. Exhibits: Mobile Meals Agreement.
15. Consider approving the Sixth Amendment renewing the Sales Tax Rebate Agreement for Lawton Marketplace at 82<sup>nd</sup> and Quanah Parker Trailway, for fiscal year July 1, 2017– June 30, 2018, and authorize the Mayor and City Clerk to execute the amendment. Exhibits: Sixth Amendment to Sales Tax Rebate Agreement, Lawton Marketplace.
16. Consider approving the Memorandum of Understanding between the City of Lawton and the Lawton Metropolitan Planning Organization for Congestion Mitigation and Air Quality programs and projects during Fiscal Year 2018. Exhibits: Memorandum of Understanding between LMPO and the City of Lawton.
17. Consider approving the Memorandum of Understanding between the City of Lawton and the Lawton Metropolitan Planning Organization for metropolitan transportation planning for Fiscal Year 2018. Exhibits: Memorandum of Understanding between LMPO and the City.
18. Consider endorsing the Fiscal Year 2018 Unified Planning Work Program for the Lawton Metropolitan Transportation Planning Process. Exhibits: FY 2018 Unified Planning Work Program (on file in City Clerk's Office).
19. Consider accepting the waterline, sanitary sewer line, easements and maintenance bond to serve the Great Plains Technology Center Business Incubator Facility located at 1601 SW Park Ridge Boulevard. Exhibits: Location Map. Maintenance Bond and Easements are on file in the City Clerk's office. **STRICKEN**

20. Consider acknowledging receipt of Tier I permit from the Oklahoma Department of Environmental Quality for the construction of 57 linear feet of 8-inch PVC sanitary sewerline and all appurtenances to serve Murphy's Express development located on the southwest corner of West Gore Boulevard and SW Sheridan Road, for a portion of Lot 1, Block 1, of Highland Park Addition, in the NE/4 of Section 35, T2N, R12W, Comanche County, Oklahoma. Exhibits: Permit to Construct is on file in the City Clerk's Office.
21. Consider awarding a contract to Genuine Parts Company, d/b/a as NAPA Auto Parts, for the purpose of providing repair parts management for City vehicles and equipment. Exhibits: NAPA Benefits Summary. Integrated Supply Agreement on file in the City Clerk's Office
22. Consider adopting a Resolution of Necessity for real property acquisition located along the east property line of Lawton Country Club and along the south side of a drainage channel on the south side of 707 and 716 NW 46<sup>th</sup> street for the North Wolf Creek Upgrade Project Part 4 (Emergency) SSES 17-1. Exhibits: **Resolution No. 17-71** with Exhibit "A" is on file in the Engineering Division Office.
23. Consider approving the construction plans for an 8-inch sanitary sewer line to serve the proposed EZ GO #39 located on West Gore Boulevard and SW 27<sup>th</sup> Street, subject to the condition listed. Exhibits: Location Map.
24. Consider awarding contract for (RFPCL17-021) Property Insurance to INSURICA of Lawton dba North American Insurance Agency of Lawton, LLC of Lawton, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.
25. Consider awarding contract for (RFPCL17-022) HVAC Services to Johnson Controls of Oklahoma City, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.
26. Consider awarding contract for (CL17-026) Mowing and Litter Areas M and O to Mow-N-Go of Lawton, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.

Loren Shreffler, Executive Director for Teen Challenge, stated they tied in this contract bid and the agenda item stated the contract was given to Mow-N-Go because they are a local company here in Lawton. He wanted to bring to the council's attention that Teen Challenge also has two programs inside the Lawton area. One is in the Lawton correctional facility and the other is the Bridge to Life House on 21<sup>st</sup> Street. They also manage Super Thrift. If that was the deciding factor in awarding this bid then he did want the council to be aware of their locations in Lawton. They actually have eight city addresses in Lawton and they have been doing business with the City of Lawton for ten years.

Jack Hanna, Parks and Recreation Director, stated the bids did come back in a tie and staff reviewed the contract and services provided. It came down to the policy of using the local vendor. Teen Challenge had a Cache address and Mow-N-Go had a local Lawton address.

Burk questioned if we had any other contracts with Mow-N-Go.

Hanna stated this will be the first one.

Burk questioned how many employees they had.

Hanna stated he thinks it is about seven. They have a list of all their employees and equipment.

Burk stated that Teen Challenge has done a really good job for us in a lot of the areas they mow. They have always been accommodating when we have called them to come back. He hates that there was some confusion on the address listed. He questioned if the recommendation would have changed if they were both Lawton companies.

Hanna stated probably not because several councilmembers have had issues with the mowing contractors to include Teen Challenge and Mow-N-Go would give us a different option to look at their quality of work and compare and contrast with the other contractors we have.

Morford questioned if the certificate of insurance is significant because Teen Challenge does not show one and Mow-N-Go does.

Hanna stated they just look at staff and equipment. The finance division may have Teen Challenge's on file since they currently have several contracts with the City of Lawton.

Burk stated we have used Teen Challenge repeatedly and they have done really good work and every time we have had a problem they have fixed it and when they didn't mow right they would go back and mow it again at their own cost. Burk stated LETA really stays on top of the mowing and contractors and what they like and dislike. He stated Teen Challenge has a proven track record and you don't punish them for that.

Wells suggested they table this until the next meeting and look at both bids as if they were both Lawton addresses.

Hanna stated they will need to do this quickly because the contract ends this month.

Tanner stated Teen Challenge has many contracts and this would be the first one for Mow-N-Go.

Jackson stated we always feel like we can never get caught up and the idea of having an additional new contractor is a good idea especially since Teen Challenge does currently have multiple contracts in town.

MOVED by Wells SECOND by Burk to table to the next meeting. AYE: Morford, Jackson, Burk, Tanner, McGahee, Phillips, Wells. NAY: Davis. MOTION CARRIED.

27. Consider extending contract for (CL16-027) Rental or Lease Work Clothing to Cintas of Lawton, OK for an additional year. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
28. Consider extending the requirement contract for Sodium Hypochlorite to Petra Chemical Company of Dallas, Texas for an additional year. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.

29. Consider extending contract for (CL15-027) Rental of Portable Restrooms to ARA Equipment Rentals of Lawton, OK for an additional year. Exhibits: Department Recommendation, Contract Extension Form, Price Sheet.
30. Consider awarding contract for (RFPCL17-023) Workers' Compensation Administration Services to United Safety & Claims, Inc. of Tulsa, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.
31. Consider awarding contract for (CL17-027) Police Sport Utility Vehicle (Undercover) to Billingsley Ford of Lawton, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.
32. Consider awarding contract for (CL17-028) Police Sport Utility Vehicles to Billingsley Ford of Lawton, OK. Exhibits: Department Recommendation, Abstract of Bids, Price Sheet.
33. Consider approving appointments to boards and commissions. Exhibits: None.
34. Consider approval of payroll for the periods of May 22 – June 4, 2017.

NEW BUSINESS ITEMS:

Mayor Fitch stated the council will address item #36 next since there are people in attendance from out of town.

36. Consider approval of a Resolution of the City of Lawton, Oklahoma (the "City") approving and authorizing the incurrence of indebtedness by the Lawton Industrial Development Authority ("LIDA," or the "Authority") by issuing its Sales Tax Revenue Note, Series 2017 (the "Note") in the aggregate principal amount of not to exceed thirty one million dollars (\$31,000,000) for the financing of certain public safety facilities, and associated improvements, and paying costs of issuance related thereto; providing that the organizational document creating the Authority is subject to the provisions of the note indenture authorizing the issuance of said Note; waiving competitive bidding with respect to the sale of said Note and approving the proceedings of the Authority pertaining to the sale of said Note; approving and authorizing a Sales Tax Agreement by and between the City and the Authority pertaining to the year-to-year pledge of certain sales tax revenues; and containing other provisions relating thereto. Exhibits: Resolution 17-\_\_.

Chris Gander, Bank of Oklahoma Financial Securities, stated this is the financing for the public safety center. They were here on February 14, 2017 and were authorized to move forward with soliciting bids. Some of the timing on the construction was delayed so they pushed this financing back. He stated they received three bids today, Bank of America, Chase and Arvest. Both Bank of American and Chase presented two options. One is non pre-payable and the second option is payable after five years. They met with the Lawton Industrial Development Authority (LIDA) prior to this meeting and went through the details of each bid and both Bank of America and Chase had their own different caveats and based on the discussion and their recommendation they are recommending option one with Bank of America at 2.21%. You are

borrowing for approximately nine years at 2.21 % which is an excellent rate. LIDA is recommending this same option.

Jensen requested Mr. Gander cover the potential for the higher rate depending on the cost of compliance with regulation.

Mr. Gander stated there are a couple of stipulations inside Bank of America. They want to make sure that audits are done timely and if the audit is not to them within 270 days, they will fine the City \$5,000. It is an incentive because they want the audit in a timely manner. The other stipulation they had is if a financial crisis occurred again and there were new regulations and their costs would dramatically change because of those regulations, they are saying they want to be able to maintain their profit margin on this financing. He stated they told them that was not acceptable because we didn't have any kind of limitation and through negotiations throughout the day they ultimately said they would under no circumstances be able to raise it more than 1.5%. He stated the chances of that ever happening are remote.

Tanner stated that if something went wrong and the economy went sour they could increase it at a cap of 1.5% over what is being recommended.

Mr. Gander stated it would only be if it relates to a federal act where their cost of capital changes.

Tanner stated this is sort of a variable rate up to a cap of 1.5%.

Mr. Gander stated it is truly a fixed rate, however they could move the fixed rate under certain circumstances. A good example is that the City has water purchase contracts and if there was a DEQ mandate put on the City they could pass those additional expenses along to other purchasers so the City could maintain their profit margin.

Tanner stated if congress did not pass this debt limit increase, that would probably trigger this 1.5%.

Mr. Gander stated he does not think this will come into play. He stated Arvest was the cleanest bid because it didn't have a lot of stipulations but they were at 2.98% which would cost the City \$1.2 million.

Jackson stated LIDA did meet at 5:00 p.m. prior to this meeting and discussed all these issues in detail and the recommendation from LIDA was to go with Bank of America and the 2.21%. There were too many stipulations in the Chase bid.

MOVED by Jackson SECOND by Wells to approve **Resolution 17-72**. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

35. Consider approving an Ordinance amending Chapter 22-1-1-102-A(1) and A(2), Lawton City Code, 2015, as amended, increasing the income limits for elderly and disabled persons to qualify for a reduction in utility rates and amending Section 22-1-1-104-C to conform with Section 22-1-1-102-A(2) regarding income level amount, providing for severability, and declaring an emergency. Exhibits: Ordinance 17-\_\_.

McGahee stated this is something she has been working on for some time and she and Councilmember Wells are looking at something to help the elderly and disabled. She stated she did vote to balance the budget which included the 2.2% increase in the utility rates and she said at the last meeting that no one had called her regarding that issue. However she did have a call back when they were discussing the restoration fee increase and she discussed with this citizen that the restoration fee was not something she felt was favorable for the citizens and they talked about elderly citizens who could not handle an increase in the water rates. She stated currently there is a reduction in utility charges for disabled and elderly citizens that have an income below \$25,000. This ordinance will raise that income level to \$28,000 which will cover more citizens and give them the opportunity to save on their water bill.

Wells stated that staff provided him with some national data and basically \$28,000 is the low income break point for a 65-year old family of two. This matches the low income break point for senior citizens. He suggested that the Lawton Constitution do a special article on this to let people know this credit is available. He stated any time they raise rates by any amount the water/sewer/refuse rate is automatically calculated by that amount and reduced by a percentage so they never get charged that full amount that is raised.

Tanner stated it says that we have 787 persons that are currently taking advantage of this program which totals to about \$26,000 a year in savings for the low income, disabled and elderly. He questioned if we had a projection if they raise this to \$28,000.

Ihler stated that savings is a month so currently it is about \$245,000 annual savings to those 787 customers. They are projecting around another \$70,000 - \$72,000 annually.

Phillips questioned how many additional citizens would that include in going to the \$28,000.

Ihler stated they did a projection but he does not recall the number.

Tanner stated if this ordinance goes into effect then they need to back out about \$75,000 from our current budget because we will not be collecting that.

Ihler stated that is correct.

MOVED by McGahee SECOND by Wells to adopt **Ordinance 17-20**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.  
(Title read by City Attorney) Ordinance 17-20

An ordinance pertaining to utilities amending Section 22-1-1-102 and 22-1-1-104, Division 22-1-1 Article 22-1, Chapter 22, Lawton City Code, 2015, by increasing the annual household income limit for elderly and disabled persons to qualify for a reduction in utility rates, providing for severability, and declaring an emergency.

37. Provide direction to staff regarding the implementation of Council Policy 10-3, Collection of Fees at the Sanitary Landfill, relating to solid waste deliveries accepted at no charge. Exhibits: Council Policy 10-3, Lawton City Code Section 22-1-4-144 A, 22-401.

Larry Wolcott, Public Works Director, stated this item is requesting some input from council as it relates to the implementation of Council Policy 10-3 and to address a couple of issues that the landfill has experienced for some time. The policy establishes procedures for collection of fees at the landfill and the policy indicates that no charge will be assessed to solid waste from a personal residence so long as it meets the definition of brushwood, garbage, refuse, rubbish or trash, or yard trash as defined in Lawton City Code Section 22-4-1-401. The policy is silent when you look at the definition of construction debris. The landfill currently receives an annual average of about 25,079 deliveries which equates to 10,570 tons of solid waste and those 25,000 deliveries are at no charge. Under the policy the individual that is hauling the waste can either present a current City of Lawton utility bill or a current driver's license reflecting an address within the Lawton city limits. The problems that are taking place at the landfill is that the landfill staff has suspected loads that are coming in that are really being delivered by contractors or by those bringing waste from outside the city limits and using a utility account to get that free delivery. The discussion tonight is to look at different ways of helping to solve that issue and close that gap to prevent those who are bypassing the regulation. Staff is recommending that they convert all the wording that is in this policy and place it in the city code so that all the information is in one location to help eliminate the need for interpretation and they are not looking at city code and policy at the same time. The second recommendation would be to not define or differentiate what type of solid waste is going to meet this policy or code. Right now they go through all of those definitions and it would be simpler just to say solid waste that is permitted to be accepted at the landfill. A couple of operational recommendations would be to require both a hard copy of the residential utility bill as well as a driver's license or picture ID that matches the address of that account so they know they are dealing with the account owner. The last recommendation would be to put some limit on the number of free trips per account. Right now it is unlimited and there are some accounts that bring 20, 30, 40, 90 free deliveries to the landfill which brings them up to that 25,000 deliveries per year. In 2015 the recycling committee put out a survey and one question was how many times do you take household waste the city landfill and of the 1,039 responses, 98% of them went to the landfill directly six time or less. The cap limit they would recommend would be six free trips per year and then they would start paying the tipping fee at that point.

Phillips questioned if staff felt that many people are coming to dump and it is not residential.

Wolcott stated it is either not residential or it is from a customer outside the city of Lawton. It is easy to share a copy of a utility bill with someone who lives in Sterling, Fletcher, etc.

Phillips stated if a contractor that was dumping illegally and yet using a water bill, would they come less than six times.

Wolcott stated that typically a contractor would come more than six times. He stated according to the survey 52% of the respondents said they went out there zero times.

Morford stated this does not include the citizens twice a year free pickup.

Wolcott stated this would be in addition to the two free bulk curbside pickups.

Davis stated he mentioned this during the budget discussion and he has done quite a bit of work on more of a comprehensive policy at the landfill. As a contractor, he knows there is widespread abuse of the system from contractors. It is costing us a lot of money and even at the minimum fee it would be hundreds of thousands of dollars a year. He stated there is a lot of work that needs to be done to close this loophole including software to be able to track that. He is in favor of doing something about this issue but still remaining friendly to the citizens where now staff is starting to refuse their dumps when they bring out their fence, if they tear down their privacy fence.

Tanner stated we have suspended that policy. He spoke to Mr. Ihler.

Davis stated he has received several phone calls about people legitimately dumping, but because of the way that certain people define the language it is open for interpretation. He would like to postpone this and talk with Councilmember Tanner about incorporating some of these other changes.

Tanner stated this is just a discussion, they are not implementing something today.

Ihler stated they are just asking for some guidance and direction.

Tanner questioned out of those 25,000 dumps annually, what percentage of that makes up the people that are taking advantage of the system. He likes the idea of requiring an ID to go with the water bill. He feels this would solve 95% of the problem with the folks that are violating the policy. The citizens of Lawton are used to carrying their trash to the dump and he feels we should continue to allow that to happen as opposed to setting it out in front of their home.

Jackson stated as a contractor he can tell you that there is abuse out there and it is annoying to be in a competitive bid process for a roof and to know that some guy is slipping by out there with free dumping. He stated Councilmember Davis has been working on this issue for a long time and he hopes that he goes ahead and keeps working to solve this problem.

Phillips stated they need to come up with something that is more reasonable.

Tanner stated a problem they are having is defining what type of solid waste. If someone came out with what was considered construction or demolition debris you wouldn't let him dump it because we had started categorizing that as demolition and construction debris but staff is

recommending that if a resident brings something out there it is just considered solid waste, we are not going to get into this nitpicking situation. He likes that idea, they need to keep it simple.

Wells stated he likes the idea of showing and ID with the water bill, that makes a lot of sense.

Jensen stated they start by getting rid of the council policy which is in conflict with some city code provisions.

Wells suggested that Councilmembers Davis, Tanner and Jackson come up with some recommendations.

Mayor Fitch confirmed that Councilmembers Davis, Tanner and Jackson will serve on a committee to look into this issue.

Davis stated there is some confusion with the citizens in that the charge on your utility bill has nothing to do with covering costs for trips to the landfill.

Ihler stated the \$16.35 monthly charge is actually for coming to your house and picking up your trash twice a week, but by having that account, it also allows you to go out to the landfill for free as a resident.

Davis stated that there is nothing figured into that cost other than covering the cost of curbside service.

Ihler stated that is correct.

Davis stated his point is, for folks that feel like they are already paying this, that fee does not address taking trips to the landfill. That is a free service that they are allowed because of the utility bill.

Wells stated up until 2004 or 2005 you didn't have to make trips to the landfill because solid waste would pick up anything you put at the curb. When they went to the 96 gallon containers they would not pick up everything you set out so the trips to the landfill probably increased at that time.

Tanner stated if someone is using their labor, vehicle and fuel to get trash to the landfill then they are doing the City of Lawton a favor. The trash might end up in a vacant lot. If they have a water bill then it has been a privilege of the citizens to get their residential solid waste to the dump and he feels they should continue that policy.

38. Consider authorizing staff to prepare a Request for Proposal (RFP) for an IT Efficiency and Opportunity Analysis, to emphasize evaluation of the operating environment and manpower requirements. Exhibits: None.

Ihler stated he was asked by a couple of council members to go ahead and put together a council item to look at a request for proposals to evaluate moving forward into the future and put

together an RFP to analyze our operating system, efficiency, manpower and everything as it relates to our current GEMS system and how we want to address our information technology. They have heard, over many years, some of the limitations of our GEMS program. At the time we purchased the system it was the low bid type system and sometimes you get what you pay for. As well as the system they will look at manpower and if they need to bring in additional folks to help support IT or do we have too many. They would like to put together an RFP and work with the existing council committee.

Mayor Fitch stated he would like to appoint Councilmember Davis to that committee.

MOVED by Burk SECOND by Phillips to authorize the council committee to work with staff. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

39. Consider approving an Ordinance amending Sections 20-4-401, 20-4-402, 20-4-403, 20-4-404, 20-4-405 and creating Section 20-4-406, all in Article 20-4, Chapter 20, Lawton City Code, 2015, regarding the revocable communications cable and pipeline permit, by re-titling the article, adding the ability for above ground communication facilities to be installed on public ways and clarifying who prepares the revocable permit for Council consideration; and creating a timeline to fix and/or remove communication facilities that have a structural failure. Exhibits: Exhibits: Ordinance 17-\_\_\_. **THIS ITEM WAS STRICKEN**
40. Consider approving a Resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2015, to amend the fees associated with revocable communications cable or pipeline permits. Exhibits: Resolution 17-\_\_\_. **THIS ITEM WAS STRICKEN**
41. Consider approving an Ordinance amending Section 12-1-108; Article 12-1, Chapter 12, Lawton City Code, 2015, regarding Food Service Sanitation, by requiring mobile food-service establishments to obtain permission from the owner prior to operating on private property and revising the requirements for the mobile food-service establishments that apply for a City Property Operation Permit to set up on City owned property. Exhibits: Ordinance 17-\_\_\_.

Richard Rogalski, Community Services Director, stated the city council approved a revision to Chapter 12 of the Lawton City Code on July 12, 2016. Since then, city staff has received some feedback from mobile food-service establishments and some complaints from property owners and determined that some adjustments need to be made. First there was an issue with the property owner calling in a food truck that they did not authorize but we did not have the authority to kick them off since it was private property. If our code requires that they have permission then they could be violating city code. We will not require that they show us proof unless we get a complaint. The other issue was regarding operating at city parks. The food truck operators felt that the fee we charged is too high and they can't make money. The following item on the agenda is a change in the fee. They are making it where we will receive a two day warning and we can check if there is an event in the park that would get in their way and if not we can permit them to go on city property. We require they clean up and pick up all their trash,

otherwise they will lose their right to get another permit. We are trying to be as workable as we can and if it turns out we need to do something differently we will come back with changes.

Phillips questioned how we would know if the trucks obtained permission from the property owner.

Rogalski stated food truck owners have an annual license so we don't know where they are at any given day. If we get a complaint from a property owner who does not want them there then we have the ability to go out and tell them to get off the property.

Phillips stated if the permission is not given then we have the right to step in.

Rogalski stated yes because they would be violating city code. Code requires they have permission from the property owner.

Tanner stated right now it is up to the property owner to ask them to leave. In some instances they are uncomfortable with that confrontation but under current code we have no enforcement.

Phillips stated this permission thing is not in writing and how would we handle that if they went to court. Would this get the city in trouble.

Rogalski stated we would have to get an affidavit from the property owner saying they did not have permission.

Mayor Fitch stated the property owner would be involved anyway because he is going to want them off the property and will tell them himself or he is going to ask for help from the City of Lawton

Burk stated he feels this is a good place to start. He noticed that food trucks have begun to pop up in vacant properties and he has a feeling they just pull up and start serving food until someone complains.

MOVED by Burk SECOND by Tanner to adopt **Ordinance 17-21**, waive the reading of the ordinance, read the title only. AYE: Morford, Jackson, Burk, Tanner, Phillips, McGahee, Wells. NAY: Davis. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 17-21

An ordinance amending Section 12-1-108, Article 12-1, Chapter 12, food and food service establishments, Lawton City Code, 2015; by requiring mobile food-service establishments to get permission from the owner prior to setting up on private property and revising the requirements for the mobile food-service establishments that apply for a city property operation permit providing for renumbering and providing for severability.

42. Consider approving a Resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 2015, to amend the fees associated with food service establishments and providing an effective date. Exhibits: Resolution 17-\_\_.

Rogalski stated originally our fee was \$25 per day which was covering if we had to go out and clean up the site, but in hindsight they don't work by that kind of margin and they just can't spend \$75 to maybe sell a few things. This fee is \$10 for the permit which is good for up to three days.

Burk stated food trucks are great to have in our community.

MOVED by Burk SECOND by Jackson to approve **Resolution 17-73**. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

#### REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

McGahee stated on June 26 – 30 at Greater Galilee at 1428 SW Jefferson, the Lawton Police Department will host a Jr. Citizens Police Academy where youth will learn what the police do on the job. On July 17-21 there will be a second Jr. Citizens Police Academy event at the Impact Center at 2810 NW Sheridan Road. This is for ages 13-17.

Wells stated Juneteenth will be held Saturday at 3:30 p.m. at Patterson Center. He stated it is a wonderful celebration.

Tanner stated this council is interested in providing user friendly policies for the citizens. He stated on Mondays the employees out at the lakes have to clean up people's messes. There are dumpsters available but we still have to clean up after these people. When things like this happen it forces the bureaucratic process to start cracking down and it is less user friendly. He requested that the folks who go out to the lake to please put your trash away.

Davis stated they had their ward 3 vote on the road repair and they voted to first address 36<sup>th</sup> Street and he told his constituents he would try to get the first funding from the bonds.

Jackson stated the trash and debris at the lakes is a real problem and he requested the City Manager take a look at this to see what can be done. They need to get a little tougher out there.

Phillips stated there are not enough trash cans out.

J.I. Johnson, Finance Director, presented revenue and expenditure highlights for period ending April 30, 2017. (On file in the City Clerk's office).

The Mayor and Council convened in executive session at 8:06 p.m. and reconvened in regular, open session at 9:06 p.m. Roll call reflected all members present.

EXECUTIVE SESSION ITEMS:

43. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending tort claim and related grievance of Ronald Smith Jr., and, if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title to item #43.

MOVED by Wells SECOND by Morford to approve a settlement agreement between the City of Lawton, Ronald Smith, Jr. and IUPA Local 24 wherein 1) Smith's July 21, 2016 discharge is rescinded and changed to a demotion from Captain to Lieutenant, 2) Smith receives back pay for the period of July 21, 2016 through January 1, 2017 as set forth in the settlement agreement, 3) Smith resigns from City employment effective January 1, 2017 and 4) Smith and IUPA Local 24 execute a full release of all claims relating to Smith's employment with the City and subsequent separation from employment as fully set forth in the settlement agreement. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

44. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to review the Employment Agreement of Frank V. Jensen as City Attorney, and in open session take action as necessary. Exhibits: None.

Mayor Fitch read the title to item #44.

MOVED by Jackson SECOND by Tanner to amend the City Attorney's contract by modifying the payment for historical sick leave provision from 100 to 200 hours with 100 hours paid in July and 100 hours paid in December beginning July 2017 until his historic leave balance reaches zero. AYE: Morford, Jackson, Davis, Burk, Tanner, Phillips, McGahee, Wells. NAY: None. MOTION CARRIED.

45. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the evaluation review of Jerry Ihler, City Manager, and if necessary, take appropriate action in open session. Exhibits: None.

Mayor Fitch read the title to item #45.

MOVED by Jackson SECOND by McGahee to approve Mr. Ihler's contract for an additional year to include a 2.5% pay increase that all general and contract employees received this budget year and to remove the re-employment paragraph 3.03 from the contract.

Tanner stated that Mr. Ihler is doing a wonderful job but in light of the fact that we have had to go up 2.2% on the citizen's water bill he does not feel he can support a 2.5% pay increase.

VOTE ON THE MOTION: AYE: Morford, Jackson, Burk, Phillips, McGahee, Wells. NAY: Davis, Tanner. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 9:11 p.m. upon motion, second and roll call vote.

---

FRED L. FITCH, MAYOR

ATTEST:

---

TRACI HUSHBECK, CITY CLERK